

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

KENNETH LUCERO

v.

WAYNE EARLY, ET AL.

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Civil No. – JFM-13-1036

MEMORANDUM

Kenneth Lucero has brought this action challenging the enforcement of a public safety protocol that was in place during the Ringling Bros. Circus held in the spring of 2010 at the First Mariner Arena in Baltimore, Maryland. Defendants have filed a motion to dismiss or for summary judgment. The motion will be treated as one to dismiss and, as such, will be granted.

The protocol in question is the same protocol that the Fourth Circuit found to be constitutional in *Ross v. Early*, 746 F.3d 546 (4th Cir. 2014). In its opinion the Fourth Circuit found the area permitted by the protocol for protesting the circus "affords ample opportunity for protesters to communicate effectively with their intended audience, whether by leafleting, holding signs, giving speeches, or engaging in other expressive activities." 746 F.3d at 560. Thus, plaintiff's claim that there is leafleting activities were unconstitutionally banned by the protocol has been previously considered and rejected by the Fourth Circuit.

A separate order granting defendants' motion is being entered herewith.

Date: February 26, 2015

/s/
J. Frederick Motz
United States District Judge